

REMARKS

The Office Action of March 10, 2006 has been reviewed and the claims amended as set forth hereinabove to place them, it is respectfully submitted in condition for allowance. Reconsideration is respectfully requested.

The claims set forth herein distinguish the cited patents in that the instant invention is interactive in relation to its prescription counseling function in a manner which is operationally different and further provides a content of information which complies with legal regulations pertaining to same, including the maintenance of a historical record of each patient counseling session.

The Bain, Chung and other cited patents present patient counseling via a video, for example, which may include an audio feature. However, the video presentation appears to be in the form of a "canned" lecture. There is no disclosure of an interactive feature which allows the patient by selection of various options which are available in the instant invention to interrogate, in effect, a complete data-base of relevant information sufficient to comply with legal requirements for prescription counseling and for storing a historical record of the counseling session. The clear advantage of the instant system is that it has the capability to save pharmacists considerable time and also to discard the "adhesive tag" physical record of transactions, which will save time for the pharmacy's staff as well as avoid inadvertent errors which are attendant to such a manual physical record.

Claim 1 has been amended to detail the interactive nature of the claimed method which provides the patient with a degree of control as to the information received as well as an ability to reject information which is not wanted and, always with the option of discontinuing at any time to elect to talk with a pharmacist. As indicated hereinabove, the interactive feature of the invention of claim 1 is that it permits the patient to interrogate the data-base of counseling information with that information that the patient wants to know.

Claim 2 further provides that a historical record of the patient counseling session is maintained, thereby complying with the law of many states while eliminating the current manual "sticker" system that requires staff time.

Claim 3 details the option that the patient retains to speak with a pharmacist at any time during the patient's interaction with the system.

Claim 11 has been amended to include electronic storage having a data-base which contains all product information required to be provided for patient counseling.

Claim 26 has been amended to indicate that the system provides patient counseling in detail sufficient to meet state law standards.

The Examiner has acknowledged that a combination of Bain and Chung fail to teach many features of the invention, even though both Bain and Chung are very recent patent applications with respect to the filling of pharmaceutical prescriptions. To fill-in the deficiencies of Bain and Chung, the Examiner cites Catan for a "prompting step" even though Catan does not relate to the instant invention or to the inventions of Bain and Chung. Catan preceded both Bain and Chung, yet neither of these included a "prompting step" which argues against Examiner's "obviousness" position, especially since the issue of "one skilled in the art" has not been defined by the Examiner. The "art" involved in Bain and Chung and the instant invention has to do with the filling of prescriptions for pharmaceutical products, a function of pharmacies. Pharmacists are not computer scientists. The Catan patent does not relate to a pharmaceutical prescription system.

The quote from Catan (page 16, ¶ 0153) relating to "the identification of discriminants... to generate a histogram...", etc. would confound most pharmacists. It is submitted that Catan 1) is inapplicable art and 2) does not, even in combination with Bain and Chung, meet the interactive steps recited in the claims of the instant invention.

The system of the instant invention was created to comply with certain legal requirements regarding prescription counseling and, thus, differs in purpose and concept from a system such as Catan's.

In this regard, neither Bain nor Chung describe "a signature" feature. Yet, to have a verifiable record of patient prescription counseling to comply with legal requirements such is a very desirable feature. In this regard, Stewart was cited. Nothing is stated as to where in Chung, Bain or Stewart one finds the "suggestion" to combine same. Other techniques of verification

are possible: 1) The patient is known to the pharmacist; 2) The patient shows ID; 3) The patient has a number code (SSN, Medicare No., Health Insurance No., etc.). Nothing in Bain nor Chung provide motivation for providing a patient signature identification step. The signature step of Claim 7 et seq. of the instant application also goes beyond authentication regarding receipt of a prescription medication, but further provides a historical record of acquired patient counseling.

The citation of Kaafarani is further evidence of the deficiencies of Bain and Chung, two recent applications directed to an automated, secure prescription filling system. Kaafarani relates not to a computer interactive system but to a direct dial system to speak with “a person.” The interactive system of the instant invention describes a computer interactive screen where the patient makes selections; one of which is to talk with a pharmacist. The specification of the application sets forth various ways of doing this. If the patient has to resort to separate apparatus in order to perform a function, the verifiability of the patient counseling session is compromised and the historical record necessary in many instances to comply with state law is deficient.

Further, two additional references have been cited to overcome the deficiencies of the main references Bain and Chung, without, in applicant’s view, providing support for the “motivation” test and the “one skilled in the art” standard, which, with due respect, seems to differ depending upon the particular reference being cited.

Additionally, cited are Young and Wallace. While both Bain and Chung were for secure prescription filling systems they did not include a “storage” system, even though, as Examiner notes, such a feature would be desirable so that a pharmacy is not liable for a misuse of medication, Young is cited for such deficiency without addressing this “oversight” by Bain and Chung since Young was available to them. The instant invention focuses on required prescription counseling such that a historical record confirms its appropriate existence. The recording in the instant invention is a further feature in combination with the various other steps in the method of applicant which provides a complete process for complying with applicable prescription counseling mandates in a way which is secure, verifiable and with zero to minimal impact upon pharmacists.

The Wallace citation addresses the packaging, dispensing and distribution of a "starter dose"; which is quite irrelevant to a method or system for conducting patient prescription counseling in accordance with legally required procedures.

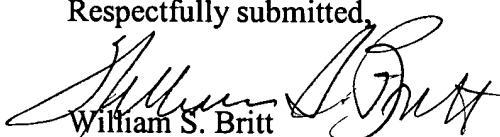
CONCLUSION

It is respectfully submitted that the Claims in their currently amended form are patentably distinct from the art of record.

The Bain and Chung references, both recently filed applications relating to automated prescription-filling methods, are acknowledged to be deficient in relation to the main thrust of the instant application, i.e., a verifiable, interactive, prescription counseling method. The deficiencies are many and diverse and the additional cited references are piece-mealed together to try to fill such deficiencies without any consideration of the fact that had it been so obvious to do the things set forth in the instant application then Bain and/or Chung would have done them. No support is readily seen to the asserted "motivation" for combining such a large number of references, especially when many are from diverse fields, suggesting a "moving target" for the "one skilled in the art" standard.

Reconsideration is respectfully requested.

Respectfully submitted,



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